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**OFFICE OF PETITIONS**

In re Application of  
Nelms, et al.  
Application No. 10/085,454  
Filed: February 27, 2002  
Attorney Docket No. DSC-7A  
For: NON-RECTANGULAR SHAPED CREDIT  
CARD WITH CASE

:  
: **DECISION ON PETITION**  
: **UNDER 37 CFR §1.78(a)(3)**  
:  
:

This is a decision on the reconsideration petition under 37 CFR §1.78(a)(3), filed March 21, 2005, to accept an unintentionally delayed claim under 35 U.S.C. §120 for the benefit of the prior-filed nonprovisional application set forth in the concurrently filed amendment.

The petition is **DISMISSED**.

A petition for acceptance of a claim for late priority under 37 CFR §1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR §1.78(a)(2)(ii). In addition, the petition under 37 CFR §1.78(a)(3) must be accompanied by:

- (1) the reference required by 35 U.S.C. §120 and 37 CFR §1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
- (2) the surcharge set forth in §1.17(t); and
- (3) a statement that the entire delay between the date the claim was due under 37 CFR §1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The instant petition does not comply with item (1)

37 CFR §1.78(a)(2)(i) requires that any a nonprovisional application claiming the benefit of a prior-filed copending nonprovisional application be amended to contain a reference to the prior-

By fax: (703) 872-9306  
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Any questions concerning this matter may be directed to Petitions Attorney E. Shirene Willis at (571) 272-3230.

A handwritten signature in cursive script, reading "Frances Hicks".

Frances Hicks  
Lead Petitions Examiner  
Office of Petitions  
Office of the Deputy Commissioner  
for Patent Examination Policy